

**CONDUCTING BUSINESS IN LATIN AMERICA:
CHALLENGES AND OPPORTUNITIES**

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CONDUCTING BUSINESS IN LATIN AMERICA: CHALLENGES AND OPPORTUNITIES

TUESDAY, MAY 16, 2000

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL ECONOMIC
POLICY AND TRADE,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:19 p.m., in room 2172, Rayburn House Office Building, Hon. Ileana Ros-Lehtinen (Chairman of the Subcommittee) presiding.

Ms. ROS-LEHTINEN. The Subcommittee will come to order.

Relations between the United States and Latin America can be compared to any other relationship between neighbors, sometimes labored, often strained, but ultimately tempered by the unshakable knowledge that their mutual interests and priorities supersede any obstacles. Today, these hemispheric neighbors find themselves in a historically unique position during which focused cooperation and thoughtful collaboration can strengthen the institutions of democracy and a free market from Alaska to Chile.

For generations, the nature of the relationship between the United States and its neighbors to the South has been one of strained accord. Yet, over the past 20 years, there has been a palpable change in the character of this association as the nations of Latin America have taken significant steps toward the institution of democratic systems and market economies.

This series of movements have initiated a dovetailing of values and interest among the nations of the Western Hemisphere and has laid the foundation for effective long-term prosperity. Yet, recent challenges have raised questions about the ability of these reforms to produce fair and responsive institutions, for prolonged economic stability, for social justice, and an attractive environment for future investment.

Some analysts contend that the first challenge to the reform movement in Latin America is the widespread disparity of wealth which continues to isolate the poor and disenfranchised from the success which many Latin American nations have achieved through market reform. This issue has roots in two different aspects of the region's socio-political culture.

The first arises from the economies which throughout the 1990's have had difficulties registering average annual growth above 3 percent. In other words, real growth has come slowly to this area, even though current average growth far outpaces the dismal growth seen in the 1970's and in the 1980's.

The second source of wealth disparity springs from the continued challenges which democratic institutions face in certain countries. Broad-based economic harmony is the product of a strong and efficient democratic administration which endows its citizens with inalienable rights and respects those rights not only in word but in deed.

Another challenge which analysts of Latin American economics have alluded to is the uncertainty on the part of many investors to trust that past financial success will translate into long-term economic stability. At the heart of this fear lies the 1990 recession among the economies of Latin America, which sent demand for United States products down 13 percent in Brazil, 17 percent in both Venezuela and Argentina, 23 percent in Chile, and down 27 percent in Colombia. This fall in the economic boom could be attributed to the stresses of the Asian financial crisis, but care must be given to ensure that underlying structural causes are not at the root of this issue.

One possible reform which analysts have suggested may relieve some of the effects of a regional financial crisis, and that is a broadening market access to foreign trading partners. On average, Latin American import tariffs fell to 11 percent in 1997, after a high of 45 percent in 1985. Nevertheless, market access has been delayed or even reversed in those countries facing economic instability or stagnation. Among those countries, imports represented less than 10 percent of GDP. By contrast, those countries which have been deemed more successful than others in opening trade have seen their market share with respect to imports increase to 20 percent of GDP as of 1998. Other nations of Latin America which have faced more severe difficulties in weathering the recession have also been the nations which have limited their market access to foreign trade.

Restricting market access among the governments of Latin America has taken on a number of different guises. Tariffs as barriers to trade are still an important part of Latin American business culture and there are three reasons for this. First, the movement to reduce tariffs has been relapsing in certain nations in the face of economic hardships. Second, unilateral tariff reductions have not necessarily favored expanded trade. And finally, sub-regional pacts, such as MERCOSUR, have limited the ability for non-member nations to compete fairly for market access.

Non-tariff barriers provide another possible area for improvement in the face of the current Latin American economic environment. The legal and regulatory atmosphere of many Latin American nations effectively promote domestic industries at the expense of their foreign competition. And finally, there is the perennial issue of entrenched powers and the corrupting influence of undemocratic behaviors.

One example of this corrupting influence can be seen specifically in the application of regulatory burdens. The inconsistent employment of such burdens has created an atmosphere of uncertainty for American investors. Without a clear blueprint of how they must proceed, investors will refrain from actively pursuing projects for fear of possible abuse from those who manage regulatory controls. In a major step to address the problems of corruption, the United

States and the nations of the Western Hemisphere signed the Inter-American Convention Against Corruption on June 2, 1996.

Yet, despite those and other concerns to be discussed today, the current climate of trade with Latin America has really never looked so favorable. Never before has the United States looked to its Southern borders and seen so much potential for mutual growth and prosperity. Times are good, and I hope that with the assistance of this impressive panel of Administration officials and private citizens, that we will be able to shed light upon the opportunities and challenges of doing business with Latin America.

With that, I would like to recognize the Ranking Member of our Subcommittee, Mr. Robert Menendez of New Jersey, for his opening statement. Mr. Menendez?

Mr. MENENDEZ. Thank you, Madam Chairlady. Let me thank you for agreeing to host a hearing on this important topic. I am personally very hopeful about the hemisphere. Despite some problems, I believe that the hemisphere is more stable politically and economically than ever before and that this is the time to expand our economic relationships with the region.

After years of turmoil, the hemisphere today is, I think, more ready than ever to engage in the global economy. Already, American competitors in Europe and Asia are moving to cement their place in what is becoming the newest hot spot for investors. So now is the time for American businesses to stake out their place in Latin America. I believe within the next decade, trade between the United States and Latin America will exceed that of the Western European countries as well as Japan and some other countries in Asia, and that is an enormous statement, that within a decade that dramatic level of growth will take place. That is why I supported the Caribbean Basin Initiative enhancement that was included in the Africa trade bill.

Now, having stated my positive outlook for the hemisphere, let me say that I asked for this hearing because of the concerns that I have about the investment climate in the region. In the past year alone, I have worked with at least half-a-dozen companies that have faced unfair or corrupt practices by governments in the region. From Peru to El Salvador, Nicaragua, and the Dominican Republic, American companies are finding that the region's positive economic forecast does not always extend beyond the raw numbers. In practice, investing in the region is often difficult and investors may find themselves subject to retroactive tax laws, faced with market access barriers and unclear regulations, and often without recourse in the judicial system.

One of our witnesses today will talk about their own experience, and in the context of that experience talk about over \$3 million that was embezzled from their company. And when they brought it to the authorities of that country and in the court system of that country, with an enormous amount of overwhelming evidence created by that country's investigative authorities themselves, not by the American company but by that country's investigative authorities, that, in fact, a court would side with the embezzlers. These are the types of examples that I have been dealing with with many companies both in my State as well as across the country who face these types of hurdles in our trade with Latin America.

There is a tremendous need in many countries for regulatory reform, transparency, mechanisms to manage corruption. American companies are subject to the Foreign Corrupt Practices Act. Competitors throughout other parts of the world are not, and, therefore, it is increasingly important to us to pursue agreements in that regard so that we can internationalize that standard, laws that ensure the sanctity of contracts and intellectual property rights, judicial reform that provides real legal recourse to businesses that find themselves in a dispute. I believe these concerns are reflected in the lackadaisical response of American investors to the region's potential.

The United States has an obligation to help American businesses and our closest geographic neighbors. It is in our mutual interest to help Latin nations to become economically strong and stable neighbors. By increasing our funding for foreign assistance programs and by ratifying the Inter-American Anti-Corruption Convention that is pending in the Senate, we can secure our economic ties to the hemisphere by helping to build an economic infrastructure that will attract and sustain investment. We are increasingly attracting investment. The question is, do we sustain that investment if companies continue to face what they face in doing business within the hemisphere.

Last, we need to provide more assistance to American businesses that have already decided to take the plunge by increasing the Foreign Commercial Service's presence in the region. I am a strong supporter of the United States and Foreign Commercial Service, but we desperately need more officers in Latin America to help American businesses make and sustain their investments. At a minimum, we should have one full-time Commercial Service employee in each country in Central and South America as well as a significant presence in the Caribbean.

So I look forward to hearing from our witnesses about their perspectives on conducting business in the hemisphere. I hope that they will be straightforward not only about the enormous possibilities, and we are all very positive about the enormous possibilities, but I would like to hear some honest opinions about some of the difficulties of doing business in the hemisphere and how we deal with some of those difficulties so that we can facilitate United States American investment in Latin America. Thank you, Madam Chairlady.

Ms. ROS-LEHTINEN. Thank you. Excellent suggestions, Mr. Menendez.

Now, I would like to introduce Mr. Sherman of California for his opening statement, as well.

Mr. SHERMAN. Thank you, Madam Chair. I think there are real opportunities in Latin America. One country, however, in Latin America is not a democracy and we should limit our trade with Cuba. Of course, what worries me is that, as I understand it, the Agriculture Appropriations Subcommittee has decided, perhaps without any hearings at all on the foreign policy aspects, but certainly without any jurisdiction over foreign policy, that we ought to change with regard to trade with Cuba and several other nations, rogue states, and I would hope that our Subcommittee, which would be the subcommittee of jurisdiction, I believe, would urge the

chair of the full Committee to do everything possible to assert jurisdiction over any change in our trading policy with rogue states. I look forward to the hearing.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Sherman.

I would like to take this opportunity to introduce the three Administration witnesses who will share their views on the current atmosphere of trade relations between the United States and Latin America. Let me begin with a very good friend of our Subcommittee, Mr. George Munoz, the President and CEO of the Overseas Private Investment Corporation, OPIC. An international lawyer with a J.D. from Harvard Law, Mr. Munoz served as the Chief Financial Officer of the U.S. Treasury Department from 1993 to 1997, when he assumed his current position. We thank Mr. Munoz for holding also a series of forums that he has held in South Florida to stimulate the interest in trade with our neighbors. We welcome you once again to our Subcommittee, George.

He will be followed by Mr. Bryan Samuel, Acting Assistant Secretary of State for Economic and Business Affairs. Appointed in August 1999, he is the State Department's senior policy official directly responsible for all aspects of the Bureau of Management and Planning. Prior to joining the State Department, Mr. Samuel was Deputy Assistant Secretary for Inter-American Affairs, where he oversaw all economic issues of the region. We thank you for being with us, Mr. Samuel.

And we are also fortunate to have with us again Ms. Regina Vargo, the Deputy Assistant Secretary for the Western Hemisphere at the International Trade Administration at the U.S. Department of Commerce. She is a regular participant in our Subcommittee hearings and activities. Ms. Vargo joined the Department of Commerce in 1972 and has been actively involved in the negotiation, implementation, and enforcement of bilateral and multilateral agreements to provide greater commercial opportunities for U.S. businesses in Latin America. Ms. Vargo was awarded the Department's Gold Medal for her work on NAFTA.

We thank all of you for being with us. We will include your entire statement in full in the record, if you could briefly summarize for us. We will begin with our friend, Mr. Munoz. Bien venido.

STATEMENT OF GEORGE MUNOZ, PRESIDENT AND CHIEF EXECUTIVE OFFICER, OVERSEAS PRIVATE INVESTMENT CORPORATION

Mr. MUNOZ. Madam Chairperson, I have to say that never before have we been so close to Latin America than today, and it is your leadership, Madam Chairperson, along with the ranking Member, Robert Menendez, and this full Committee and representative chairmen that has sent the right message to Latin America, that a crucial component of our relationship with Latin America is in the economic sphere. As those countries strive for a better standard of living, what not better to have the Administration's trade and investment agencies, the Department of Commerce, and others be highly focused in this area.

I would like to make four points today, Madam Chair. Strengthening relations with Latin America is in the United States interest. I would also like to say that there are vast opportunities for U.S.

businesses of all sizes in Latin America, that economic and political stabilization are essential for long-term investments, and last, that OPIC is playing a significant role which will benefit regional economic development.

Why trade and investment in Latin America is important to the United States, it started after the Second World War when President Roosevelt said that in order to assure permanent peace, it is important that there be a decent standard of living for every man, woman, and child. That created the Overseas Private Investment Corporation, and to this day, that is our mission, to mobilize and facilitate the participation of U.S. capital and skills in the economic and social development of less-developed countries in areas, especially countries in transition from non-market to market economies.

We do four things. First, we ensure investments overseas against a broad range of political risks. Second, we finance business overseas through loans and loan guarantees. Third, we finance private investment funds that provide equity to businesses overseas. And last, we advocate the interest of American business and communities overseas, as pointed out by Representative Menendez.

It is important that we do our business by promoting the best practices. I am proud to say that we promote investments in trade by highlighting the importance of environmental standards in those investments. Second, that we take a look at the impact of those investments. It is important to note, Madam Chair, here that OPIC does not support any project that will eliminate any American jobs. We also make sure that the countries that we work with respect worker rights.

Trade and investment is important, Madam Chair, because two-thirds of world trade is done by companies with foreign operations. That means that the more exports and trade that we want, it is important for companies to have a foreign operation. In fact, one-third of all U.S. exports go to the exporters' overseas operations. That is a dramatic statistic. The Department of Commerce has come out with statistics that show that there are more sales done by U.S. companies' foreign affiliates than through exports. It means that if we are going to reach the market overseas, it is important that we reach them through an operation in those countries.

Helping countries to develop is an important part of U.S. foreign policy. The positive impact that OPIC has, first, we strengthen our national security and prosperity for the United States by helping businesses stay competitive on a global basis. In fact, since 1971, OPIC-supported projects in support of U.S. foreign policy goals has created more than 242,000 American jobs. At the same time, and more importantly, we are creating stability and increasing the standard of living in developing countries. In 1999, for example, OPIC-supported projects will generate 30,000 jobs in developing countries and \$1.2 billion in taxes for those countries. But best of all is that we do this at no cost to the taxpayer. In 1999, OPIC earned \$144 million in net income after expenses, creating a positive cash-flow for the U.S. Treasury.

There are challenges to doing business in Latin America. Congressman Menendez pointed out that corruption is one problem. The first generation of reform requires that countries open up and privatize their foreign ownership, that they liberalize their foreign

laws, reduce trade barriers, and open their economy to the markets. We have seen much of the first generation in Latin America, but it is the second generation of reform that we are still seeing problems.

No. 1, it is important that countries have good governance and there is much to be learned from countries that have made it successfully into the global economy that many countries in Latin America still need help in. There needs to be a social infrastructure, though the income disparity that, Madam Chair, you pointed out in your opening comments is very serious and likely could cause instability that gives us concern. And last, there needs to be full participatory democracy in these countries.

I also wanted to point out that in terms of corruption, that is probably the No. 1 area that businesses will point to as being the concern in Latin America. We as an Administration speak out against this. Recently, Central America held a conference on this, and I am proud to say that it is not something that just the United States is saying, but presidents from some of these countries are also saying that this is a concern to them.

Our current portfolio shows out very proudly, Madam Chair, that when I came to the Overseas Private Investment Corporation, it was my objective to leverage the strength of the small business. It was my objective to leverage the strength of diversity that our country enjoys in the language and in the culture of many of those countries in Latin America. As a result, as this will show you, our portfolio has 49 percent of it is in the Caribbean, Central America, and South America. I am proud to say that because to the extent American businesses expand, what not better to strengthen our own hemisphere. What not better to bring stability to our own hemisphere and show the model to the rest of the world. We are proud to be part of that.

This will show you that, in fact, almost every country has a project that is going on that OPIC has been supportive of in one fashion or another, but I would like to bring this home to you in terms of some of the examples.

The areas of investment are very broad. As you may know, in many of these countries, for the first time, they were opening up to the private side. So many of these sectors are in the infrastructure, like power and communications. But I am proud to say that in the Caribbean, where the only form of dollars that can come into that area is in tourism, we, too, are playing a lead role in bringing some tourist development to that region.

But it all comes down to actual cases. In Haiti, which is a country that suffers probably the most from poverty and instability, Haiti was a country that when OPIC came to assist did not have a flour mill that was in operation. It had been taken over by the government earlier and then was left in disarray. Thanks to a Kansas City company that was wanting to take it over as a privatized venture, OPIC was able to help provide political risk insurance for its development. It now has 200 local jobs and there is a local wheat factory for that poor country.

Nicaragua also is a benefactor of power and electricity that has come to that country through an American company, Coastal Cor-

poration of Houston, and we have been instrumental in establishing them in Nicaragua.

In Dominican Republic, the first private sector airport at Punta Cana was done with the assistance of OPIC and it was only a small direct loan of \$1.5 million that showed that country how to lead into the private sector.

We have several initiatives that we wanted to point out to this Committee. One of the things that when I first took over this position, Madam Chair, you may remember I met with you personally and also with Ranking Member Menendez, also with Representative Manzullo. What I heard was the small business, the small business, the small business, and especially in the Caribbean and Central America. We have many families from those regions in the United States, but more importantly, we want to stabilize those economies. I am proud to say that we worked very hard and have now reached an agreement with Panama that will help stimulate investments in that country.

We also established a Citibank facility. Representative Menendez had been very clear to me that lack of capital for many U.S. businesses was what was keeping them from establishing trade and investment opportunities in Central America. We quickly moved and discovered that we had opportunities through this facility that we have established. So far, it has approved \$76 million in seven different projects in six different countries.

But that is not all we are doing. Unfortunately, the region suffered from two hurricanes and, therefore, we, together with the rest of the U.S. administration, especially with the assistance of AID, Department of Commerce, we established the Central American-Caribbean Initiative, where we are reaching out to the business community so that they can bring investments to this region.

We have, as part of this initiative, we are taking conferences through five different cities in this country to Los Angeles, Chicago, Miami, Houston, and New York, culminating in a meeting in Panama, a regional conference in Panama, where we are highlighting the business opportunities in this region.

We are also promoting stability in Colombia. We know that this Subcommittee has also been working on ways to curb the drug trafficking that is occurring in that country plus the instability that is going on. I have met with the president there and we have come up with some initiatives at OPIC to try to bring investment as an alternative form for the economy in that country.

A very exciting initiative is our entry into housing. Housing is probably the most demanded item for all the developing world, and we know in this country that it was the ownership of homes and houses that established the middle class. Well, the housing needs has gone unmet and the formulas for funding them have been inadequate. As a result, OPIC has been working for a year and a half, working with investment banking firms and private sector investors for ways to structure a commercially viable housing for low- and moderate-income people in developing countries.

We believe that we are very much at the cusp of coming up with a solution that will help bring capital from private investors into the housing area where OPIC can play a role. We believe we can

do it in a prudent manner, in a manner that continues our long tradition of being successful at these ventures.

I also want to point out that it was our focus on small business that has gotten us the respect that we believe we now have in Congress, and it has been thanks to your leadership, this Subcommittee's, and all the Members of this Subcommittee that has made it clear to me that the small business community needs the extra hand, is the one that needs the extra support from OPIC.

So, therefore, we established a new interactive small business training program in our website where businesses do not have to come to Washington to know about us. They can go into the Internet and there is an interactive training program. We streamlined our application process. We reduced the minimum loan size. We have a new small business hotline.

As a result, just this last year, we doubled our assistance for small business and 34 percent of projects involved that we financed were small businesses, and 70 percent of finance commitments went to small businesses. This is more than a record for OPIC. It is an astonishing accomplishment and change of culture that we have brought to the institution. The first financing project in Angola, Armenia, and Lebanon were also led in 1999, and we are proud to say that two-thirds of all suppliers to OPIC projects, even large ones, are from the small business community.

We know that a small operation in Washington to reach out to the whole country and to the developing world, we have to rely on technology. So we have increased our use of technology. We have a website that is very interactive and provides the latest information to any investor in the United States in terms of what we do.

This is part of our small business training site. One of the sites that is most used by investors is our information gateway, where an investor can click on any country in this map and find out the most current information about that country, our embassy information, as well as online newspapers from those regions. We have this information that comes to all of our investors.

In conclusion, I would like to say that, in fact, Latin America is a priority for OPIC. The results are in our portfolio, as it has now grown to 49 percent out of \$18.3 billion in our portfolio. There is a profound interest to U.S. economic and security interests. We know that the people leaving the Caribbean and Central America coming to the United States, some of them drowning along the way, some of them suffering through all torturous violations of human rights, are doing it because they want a better standard of living, what President Roosevelt said in 1945. He said that that was the only way to bring about peace and stability. We believe that we have that profound interest here in our own hemisphere.

We also believe that there are exciting opportunities available to U.S. businesses and that economic and social progress must accompany democracy and political reform. That is not just a desire for the business to invest, but these countries must have social progress in education, eliminate the income disparity, and work with their constituents in order to have the free markets and democracy fully at work.

We very much appreciate you allowing us to make this presentation. We are very proud that this Administration, in fact, has

made Latin America a priority, and thanks to the help of this Subcommittee, we believe that our word is going out. Thank you very much.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Munoz. It certainly is going out. We thank you for a very high-tech presentation, as well.

I would like to recognize Ambassador Ambler Moss, who is in our audience, the head of the University of Miami North-South Center. It is always good to have you with us, Ambassador.

I would like to recognize Mr. Samuel for his remarks, as well. Thank you.

STATEMENT OF BRYAN SAMUEL, ACTING ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. SAMUEL. Thank you very much, Madam Chairlady and Members of the Committee. I am very pleased to be here today to join this panel and have the opportunity to discuss with you the business environment in Latin America.

The past decade has been one of remarkable achievement for this hemisphere. Broad agreement now exists that governments should be democratic, that economies should be market-based, and that the benefits of growth should be widely shared. In most countries, democracy is becoming deeply rooted and democratic institutions are growing stronger.

Most Latin countries are also firmly on the path of economic reform, taming inflation, privatizing state-owned enterprises, modernizing regulatory mechanisms, and liberalizing financial and trade systems. Following the recent financial crisis in Asia, the hemisphere is again growing strongly. Opportunities for trade and investment are immense, and the United States is particularly well placed to take advantage of them.

Reform, however, is still a work in progress. Administration programs in Latin America support deepening of the reform process and strengthening the rule of law. In so doing, we are increasing opportunities for U.S. firms and making it, we hope, easier for them to operate in Latin America.

We are particularly concerned with the protection of intellectual property rights. Piracy of sound and video recordings and of computer software, as well as abuse of pharmaceutical patents costs U.S. firms millions of dollars in lost sales. The U.S. Government and State Department, in coordination with our private sector, is working hard with individual countries to improve IPR enforcement. We have established training programs and seminars, which include a particular focus on prosecutors and the judiciary.

Judicial reform overall is another key area. Our Latin American programs center on criminal procedures, effective representation, and other areas of criminal law. The lowering of trade barriers has heightened the need for improved enforcement of contracts and other commercial arrangements and we are working with individual governments to improve commercial law facilities. Legal security is essential to all those who engage in commerce, not just international investors.

We are also looking to ease the regulatory environment for U.S. companies in Latin America. We have signed an antitrust cooperation agreement with Brazil and we are in the process of negotiating accords with Argentina, Mexico, and Panama. These accords will open up direct lines among our competition authorities.

Corruption, as Representative Menendez mentioned, undermines companies' ability to operate in a transparent and predictable environment in Latin America. We are proud of the Inter-American Convention Against Corruption which we negotiated and signed. It is the first instrument of its kind in the world. It requires parties to criminalize acts of corruption. U.S. ratification of this agreement would send a strong signal to the hemisphere.

We are facilitating trade and investment through the negotiation of a series of bilateral civil aviation agreements. These have greatly expanded passenger and freight services throughout the hemisphere. We now have open skies agreements with Chile, Peru, Argentina, the Dominican Republic, Aruba, the Netherland Antilles, and all of Central America except Belize. We concluded a new agreement on code sharing with Mexico worth hundreds of millions in additional annual revenues and have agreed to new services with Colombia that will provide the United States with over \$125 million in direct benefits each year. We have continued to work hard on behalf of further liberalization in our hemispheric civil aviation arrangements.

Negotiating bilateral investment treaties in Latin America is another top priority. These treaties protect U.S. investment abroad and encourage adoption of market-oriented domestic policies that treat private investment equitably. BITs also support the development of high-quality international law standards for investment. BITs with Argentina, Ecuador, and Panama are now in force, while agreements with Honduras, Nicaragua, El Salvador, Bolivia, and Jamaica will surely be submitted to the Senate.

Trade preference programs, such as the Caribbean Basin Initiative and the Andean Trade Preference Act, carry conditionality that fosters transparency and creates improved competitive conditions for U.S. business. For instance, the recently passed CBI enhancement legislation requires beneficiary countries to take steps to become party to the Inter-American Convention Against Corruption. CBI beneficiaries must also meet their WTO commitments and maintain a transparent government procurement system.

The State Department and U.S. embassies throughout the hemisphere are also working closely in support of U.S. business. Commercial outreach and advocacy are critical priorities for our Ambassadors. Our embassy staff, working in many countries with the Foreign Commercial Service, include experts working to develop opportunities for U.S. firms and to remove impediments to U.S. exports.

All of these initiatives dovetail into our efforts to launch the Free Trade Area of the Americas. The more we can help countries develop accountable transparent systems where the rule of law is respected, the better they will be able to undertake the obligations of the FTAA. When negotiations end by 2005 and after Congress passes implementing legislation, the FTAA will be the largest free

trade zone in the world, establishing a market exceeding \$10 trillion with more than 800 million people.

Nine FTAA negotiating groups are now at work on issues ranging from market access in agriculture to competition policy. The completed FTAA should eliminate tariffs, establish better protection of intellectual property, encourage competition, transparency, and impartial regulation and create an effective means of resolving trade disputes. The FTAA process includes a civil society committee, which I would be honored to chair for the United States. It is designed to advise governments on the use of business, labor, consumers, environmentalists, academics, and other citizens' groups.

Before I conclude, I would like to take the opportunity to welcome the recent House and Senate passage of legislation to enhance the Caribbean Basin Initiative. Enactment of this measure will support the favorable economic and political trends in the region as described and will help enable these countries to undertake the obligations of the FTAA agreement.

Thank you for the opportunity to testify today and I look forward to further discussion.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Samuel.

Ms. Vargo.

STATEMENT OF REGINA VARGO, DEPUTY ASSISTANT SECRETARY FOR THE WESTERN HEMISPHERE, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Ms. VARGO. Thank you, Madam Chair and Members of the Committee. I would like to first commend the Subcommittee for its continued focus on our commercial relationship with Latin America and the opportunities that it presents for U.S. firms. As they say, timing is everything and Congress just voted a landmark bill, the so-called Africa and CBI bill, which will further advance United States-Latin commercial relations.

The Western Hemisphere comprises all the Americas and makes up the group of 34 nations that are negotiating to build a Free Trade Area of the Americas. Today, the Western Hemisphere accounts for 1 out of every 5 dollars that the United States exports. More impressively, the Western Hemisphere has been responsible for almost half of all U.S. export growth since 1995.

This is despite the fact that beginning in late 1998, the global financial crisis and lower commodity prices and then Hurricanes Georges and Mitch took their toll on Latin American economic growth. The regionwide downturn, coupled with currency devaluations in several markets, seriously lessened the region's demand for U.S. exports. Total two-way trade with Latin America, excluding Mexico, fell in both 1998 and 1999, and our trade balance with the region swung from a record surplus of \$13 billion in 1998 to a deficit of \$3 billion in 1999, our first regional trade deficit since 1991.

Our exports to the region continue to founder so far in 2000, but are expected to revive with the region's fortunes. The World Bank predicts a 4-percent gain for the region's economy this year, with imports rising by as much as 10 percent. But in order to make the

most of the opportunities in Latin America, we must address several existing challenges.

First, we need to find a way to move forward with Latin America on an ambitious trade agenda. Congressional passage of CBI enhancement should reassure our hemispheric partners that the United States remains steadfast in its desire for closer economic relations and help propel momentum for the FTAA. FTAA countries are already implementing an initial package of business facilitation items. These are hemispheric-wide solutions to real world trade problems, like our common agreement to move express shipments through customs in just 6 hours. Our target for the next FTAA ministerial in April 2001 is a second round of agreed measures and a comprehensive bracketed draft text.

Electronic commerce offers another avenue for forward progress. This was the theme of Secretary Daley's recent mission to South America, where he signed a joint policy statement with Chile, the first of its kind in Latin America and secured Argentina's support for the Administration's e-commerce framework. Tomorrow, Secretary Daley will sign a similar e-commerce policy agreement with Colombia's trade minister, and at Thursday's Binational Commission here in Washington, the United States and Mexico will review our cooperative efforts to make North America a seamless web for online commerce.

Progress on these fronts is important because we face a second challenge, a significant increase in foreign competition for Latin American markets. Increasingly, U.S. exporters find themselves competing against firms located within the region that enjoy lower tariffs as a result of sub-regional trade agreements. We have encouraged this integration because it contributes to greater economic growth, reinforces Latin economic reforms, and buttresses the emerging democratization of the region.

But recent agreements are now looking outside the region. Last November, the European Union and Mexico concluded a free trade agreement. The EU is intensifying negotiations with MERCOSUR toward consolidating the two regional blocks. And Chile is making overtures to Asia, beginning free trade talks with Korea, and considering talks with Japan.

Our third challenge concerns ongoing market access issues that continue to affect the competitive potential of U.S. firms. This month, super and special 301 reports highlighted two of the most important, the use of reference import prices by Mexico and Brazil and intellectual property issues with Argentina and Brazil.

Finally, we wholeheartedly agree with Assistant Secretary Bryan Samuel's point regarding the problem of corruption, as well as Director Munoz's comments on the important role that OPIC plays in the region.

The Commerce Department's International Trade Administration also plays a number of critical roles in promoting U.S. commercial opportunities with the Latin American market, ranging from export promotion to trade policy implementation to enforcing our unfair trade laws.

I want to again thank the chair and the Subcommittee for your past support of ITA's market access and compliance unit, of which I am a member. MAC continually develops and advocates strategies

that the Administration can adopt to address market access and compliance problems in the region, and we are carefully monitoring the new regional sub-agreements to ensure that they do not unfairly disadvantage U.S. exports.

Thank you, and I will be pleased to answer any questions.

Ms. ROS-LEHTINEN. Thank you so much, Ms. Vargo, for your testimony, and thank you to all of you.

Mr. Munoz, I would like to ask you about the impact thus far on the United States and on host countries of OPIC's Central America and Caribbean initiative. What is the projected long-term benefits for U.S. investors of this initiative and are you planning on embarking on other similar initiatives in other areas?

Mr. MUNOZ. Yes, Madam Chair. From the unfortunate occurrence of the hurricanes, there does come an opportunity. The countries of Central America and the Caribbean have expressed an interest in a transformation so that their countries were not trapped into the old agricultural economy that they were at. Some of the new investments that are taking place in Central America and the Caribbean have to do with building the infrastructure, from transportation in Panama and in the Caribbean to electricity being brought for the first time on an integrated system basis to many of the countries in Central America.

We believe that the long term bodes well. The fact that the American government is willing to help finance or provide political risk insurance for some of these investments is sending the right signal to the business community in the United States that this region is of a high level of importance to us.

We already see by something as simple as bringing a flour mill to Haiti that had to import its bread and any of its products that required flour, we are already seeing a much more positive impact from that, but there is a long, long way to go. But we do know that getting the private business sector involved is the solution.

I just want to conclude by saying that the best candidates for investment in the Central America and the Caribbean region, interestingly enough, are from families that came from those regions. Recently in Los Angeles, we met with the Salvadoran and Guatemalan community that had already been successful in the United States and they were expressing interest in returning to those countries, not to return permanently but to return as investors in those countries, and we were able to bridge those investments.

Ms. ROS-LEHTINEN. Thank you. I would like to ask Mr. Samuel and Ms. Vargo a question. One of the witnesses in the second panel will be testifying about a horrific experience that his company has had in El Salvador with judicial corruption, and his company lost \$3.3 million when they were embezzled from his company, and despite the overwhelming evidence, the judge in the case ruled in favor of the embezzlers. We understand that the U.S. embassy in El Salvador was aware of the situation and I want to know how it happened that neither State nor Commerce were able to help them.

And the bigger part of this problem, not only do I want to know what steps were taken to protect the rights of Mr. Zamora and Mr. Arguello, who are constituents in my district and are in the audience today, to protect them against these embezzlers. What protec-

tions are being taken and what can individuals expect from our government or what could be available for any legal recourse, what protection? What steps are we taking and concrete progress in the areas of judicial reform or anti-corruption investment enforcement measures before we enter into further trade agreements or granting NAFTA parity to other countries, El Salvador and others, and what are your views on creating a corruption certification process and an index for countries in the region as a prerequisite of U.S. trade and economic benefit to be conferred?

So I want to know first about this specific case, and then in general terms what proactive steps we can take to make sure that this does not happen in the future and what protection can our U.S. businesses expect from our U.S. agencies.

Mr. SAMUEL. Thank you very much, Madam Chairman. I learned about this case just today, and certainly the circumstances look appalling. I understand that our embassy has been in contact with the company over the number of months, in fact, I guess, for the last few years that this has been going on.

As a general practice, we do not intervene directly with the courts of a country the same way we would expect that embassies here do not intervene directly with our courts. That being said, we have and will continue to press the government in El Salvador that we expect that this situation is handled in a transparent manner, in a fair manner, and that the courts act—we expect of the Salvadoran government that the courts do act.

Ms. ROS-LEHTINEN. If I could just interrupt you—

Mr. SAMUEL. Sure.

Ms. ROS-LEHTINEN [continuing]. You said we will continue to carry on those conversations with the government of El Salvador.

Mr. SAMUEL. Right.

Ms. ROS-LEHTINEN. What has your Department done thus far?

Mr. SAMUEL. As I say, I have just learned about this today, Madam Chairman, and I am told that our embassy has, in fact, made several representations to the government of El Salvador, and my guess would be at the foreign ministry, and I can get you the specifics of that. I will be very glad to do that.

Ms. ROS-LEHTINEN. Yes, if you could. Thank you.

Mr. SAMUEL. I will certainly do that.

Ms. ROS-LEHTINEN. Now, the normal procedures would be, if I could interrupt you for a minute—

Mr. SAMUEL. Sure.

Ms. ROS-LEHTINEN [continuing]. The embassy would normally notify you or they would not, meaning if there is some problem here, if the embassy, the U.S. embassy in a country knows about a problem, but yet does not notify a person in your position, you would be the one, the individual who would be tasked to know about this problem, so I do not know who they would have contacted if it did not go up to you.

Mr. SAMUEL. Well, in this specific instance, I understand that it had gone back to the geographic bureau and to our Latin American bureau and that officials there certainly have been aware of it. I found out about it today, so it is an oversight. I should probably have known about it sooner. But again, we have now taken care of that.

Ms. ROS-LEHTINEN. Well, perhaps it is the structure of the way that the communications take place in the Department, to make sure that the individual who would be most likely to help, which I believe would be you—

Mr. SAMUEL. Right.

Ms. ROS-LEHTINEN [continuing]. Would be immediately notified by our embassy, because I would imagine that this could happen in many other places and, in fact, probably does.

Mr. SAMUEL. I think that is right. That is right. We will look at that.

Ms. ROS-LEHTINEN. And if you could get back to our Subcommittee on the actions that our U.S. Government took to protect and help these individuals.

Mr. SAMUEL. I will be glad to.

Ms. ROS-LEHTINEN. Yes, Ms. Vargo.

Ms. VARGO. Thank you. I am also distressed to say that I was unaware of this case before today. I would be happy to go back and see what kind of reporting took place about it to make us aware of this particular incident because it had not previously come to my or my managers' attention. So we would be happy to look into this.

Ms. ROS-LEHTINEN. Thank you. I think that this points to a problem in communication because I think that is part of the frustration that U.S. businesses are feeling, that they get into a problem with corruption in another country and it does not seem like our U.S. agencies are helping them and it is because they are not getting the information. So if Mr. Munoz is correct in saying that it does seem to be an overriding concern of U.S. businesses, the problem of corruption in other countries, it would seem that we would have a department set up and a host of folks who would be able to deal with that and we wonder why we are not doing enough in investment and trade in countries, yet we do not seem to have a system set up that could handle those complaints.

Also, what thoughts do you have about any corruption certification programs? Is this something that you have thought of doing in order to get some comfort factor at the very least for U.S. businesses to feel like if they run into trouble, that there is some agency to turn to and that, in fact, corruption is an important factor for the United States to consider before we enter into trade agreements with other countries.

Mr. Samuel.

Mr. SAMUEL. Certainly, Madam Chair. We have not looked specifically at the question of corruption certification and related to trade and then to entering the trade agreements. We have, however, as we looked toward negotiating a Free Trade Area of the Americas, are looking at the larger problem of proactively addressing corruption problems. Part of this is through the negotiation of the international agreement.

It is interesting that Transparency International, which is a very good NGO that puts a lot of attention onto corruption issues, has, in fact, an index that it maintains, and of that, 17 Western countries, of which 11 are listed as the most egregious. So it is an endemic problem in Latin America that we are trying to find ways to address through the convention, through various training programs.

We have brought judges up here from a number of countries. I do not know that the country involved has been involved in judiciary training, but we have brought them up. I have, in fact, been involved in meetings where we have had even members of the Supreme Court meet with visiting judiciaries and try to bring some idea of what a properly functioning judiciary would look like.

Ms. ROS-LEHTINEN. Thank you, and I hope we—

Mr. SAMUEL. So it is a proactive approach.

Ms. ROS-LEHTINEN. We look forward to your responses to our concerns about this ongoing corruption problem.

I would like to recognize Mr. Menendez for his questions.

Mr. MENENDEZ. Thank you, Madam Chairlady.

I want to thank you all for your testimony. I do not know whether it was our failure to give you the sense of what we really were looking for or your diplomatic decision to avoid some of the issues that I think are really crucial, so let me try to explore them with you in this period of time.

I have for 8 years on this Committee, sometimes alone, been the greatest rooter for Latin America and for having our Committee and the Congress pay attention to what is happening in Latin America in a variety of ways, so I take a back seat to no one in that advocacy. But I also recognize that we have some serious problems in doing business in Latin America.

We have one of our airlines who recently was told, we are not going to renew your license because the FAA is going to downgrade us. Well, that airline cannot do anything about it. We have Mr. Zamora's testimony about his case. We have companies in one of my own districts in Nicaragua who, notwithstanding judicial decrees, cannot get their property back. We have a set of circumstances where our business people, incredibly competitive, offering lowest, best price with all of the attendant issues being met in a bid and continue to lose them. We have judicial decisions going against our citizens and companies that are unbelievable. We know that a court is always, to some degree, a roll of the dice, but should not be when the country's own information is so overwhelming that its judiciary could not just overlook that it.

And so what I would like to hear from you is, in part, how do we intend to deal with that? I think that the Inter-American Anti-Corruption Convention is a great step forward. Of course, enforcement is important because any agreement, any convention is only as good as its enforcement. I mean, we have that problem with a variety of trade issues. So enforcement, I would like to hear you discuss that.

I would also particularly like to hear from you, Mr. Secretary, on the question of whether you really do believe that the State Department is the appropriate vehicle and our embassies, are they really the best vehicle for advocacy of American businesses when they are finding themselves in the difficulties such as, just by way of example, Mr. Zamora's company, because it is the same Ambassador from our country in that foreign country who is going to go to the foreign ministry on a variety of bilateral issues.

I do not know what the triage is for that Ambassador, but I have visited with many of them and I have listened to some of the issues they face and, of course, priorities that they receive from the Ad-

ministration and the State Department and that is why I would like to hear whether really if the State Department is the best, given the embassy's situation, with the number of issues it has to face, given the fact that it is looking to maintain general good relationships with that country, is it really the best entity to respond to these disputes or should we not, in turning to Ms. Vargo, have a greater Foreign Commercial Service presence in the hemisphere, which we sorely lack, as I said in my opening statement, which would be, I think, in some respects greater advocates of the interest of our companies that are doing business in Latin America.

I would like to start there, because we all talked about the trade potentials and the opportunities and that is great. I think we all recognize it. The question is, how do we overcome the challenges, because before you will convince some of us to continue to broaden the scope of the engagement in ways you would like to see, you have got to also show us that when we do engage, that, in fact, we have a fighting chance here. And for so many of my companies—I have only touched the tip of the iceberg of the story as I can tell you—large and small, it is a great obstacle. So is the State Department and, i.e., the embassies, really the best vehicle? Should we not have a greater Foreign Commercial Service?

Maybe, Mr. Munoz, you could tell us how OPIC could leverage what it has to offer to try to promote greater transparency and the anti-corruption process. Mr. Secretary, we could start with you.

Mr. SAMUEL. Thank you very much. With regard to the classes of cases that you raised, they are all very serious. The idea that an airline would be denied license because FAA is making a legitimate appraisal of the safety of its airports is something we just would not tolerate. We have gone back and we have again been in diplomatic discussions with the country involved. There are ways that we can turn up heat one way or another and that as the situation develops, we will have to see what can be done diplomatically in that area.

On property problems, we have—in fact, I have sent the letter, made the determination just recently to deny visas and we have sent out notifications for certain individuals in Nicaragua because of the seriousness in the property area from the recent legislation that was passed. So we do have some mechanisms to go on, but each one is sort of individually tailored, I would say. Overall, it is primarily through a proactive training program that we have mentioned with the judiciary.

On procurement here, it is looking at something more long term. This is one of our goals in getting either both through the WTO negotiations and through FTAA negotiations, to try to bring transparency into government procurement operations in these countries. So I think in each of these areas, we are active. We are trying to move forward.

On the question of the State Department's role, I think the State Department has to do a lot of things. First and foremost, Secretary Albright has made clear that our Ambassadors are representing the United States. Our clients are the United States and if a business has problems, they should feel free. The Ambassador should be looking first and foremost at taking care of that. If that is not being done, that is an oversight on our part and there should be

no problem, that this is priority No. 1 for the State Department, is to look out for U.S. interests there.

The FCS component of the embassies, of the FCS team, is an integral part of the Ambassador's overall team and should be working with that. In those areas where it can be beefed up, indeed, I think we would be happy to see more resources brought into the FCS sections. Again, it is always a question of resources.

Mr. MENENDEZ. Before we move on, could I just ask you, though, it is interesting to hear you, Ms. Vargo, did not know about this specific case and any specific case you might not know about, but what do the embassies do in terms of reporting that brings it up so that you understand when you are talking to your counterparts in the hemisphere, or in a country that has, for argument's sake, 100 similar cases—this is a country that obviously needs some attention to it.

I get a sense—my sense is that this basically stays at a much lower level within the State Department. It basically stays with the Ambassador in that country and, I do not know, maybe the country desk, but I do not get a sense that it percolates upwards at a level where you should all know so that you are advocates of saying, you know, we have a wide scope of problems in your country in terms of these issues and here are a variety of examples of them. What do you get in that regard?

Mr. SAMUEL. Well, certainly in this one instance, or in this instance, it has not risen up to the level it should in Washington and we are taking care of that today and we will look back into that.

Mr. MENENDEZ. Well, we cannot afford a hearing for each case, so—

Mr. SAMUEL. No, I understand that. Thank you. But with certain other countries, I think that there is a level of problem. We have talked about the expropriations in Nicaragua, where we have just taken some recent action. I know that there are some other countries in Latin America where the level of concern has reached a point where the Secretary of State has raised it with her counterparts during visits. So again, I think where it is widespread and endemic, it certainly does reach the top levels of the State Department.

Ms. VARGO. Thank you. Let me just add to that a thought up front. First of all, there are two different issues of corruption in Latin America and different ways the U.S. Government can address them. One is corruption that may occur within an administration. Another is corruption that might occur through the court.

Obviously, part of what we are trying to do right now is to encourage the development of an independent judiciary. There are approaches that the U.S. Government makes, but we usually stand back to at least let the process play itself out to see if the courts cannot function in a way that they should. Somewhere along the line, if we start getting warning bells about how the process is going or we know a piece of information up front that we find objectionable we may intervene. For example, there is a dispute going on right now, I believe it is in one of the countries in the Andean region where the complainant against the U.S. company has his brother-in-law as the judge. Needless to say, we have already been

in to state our objections about the chances for this company getting a fair trial.

So there are some obvious things you can do and some things that you have to wait out. This takes a bit of patience and that is difficult. But you also need something to enforce. For example, a lot of the WTO rules are going to become applicable to these countries this year. Take customs valuations as an example. Up until now countries have not had a set of obligations so that every instance when we interviewed, we had to go in and just ask for the right thing to be done. We did not have a lot of leverage in raising these issues.

We spend a lot of time dealing with issues like the one we resolved just a week ago in Colombia for a small company called Trade Power. It had \$200,000 worth of merchandise that it could not get through Colombian customs. It took a lot of hands-on work. So we do work with these companies' problems to resolve them but better trade rules, expanding those trade rules in this region in the FTAA through things like the Government Procurement Code will, I think, help us address this issue.

Regarding the comment, though, about greater FCS resources, Congressman Menendez, I think there is no doubt about the value of the role that the USFCS plays in each of these countries. They are the direct and daily link with the business community. They would be among the first ones to hear of a problem or a systemic pattern of problems that companies are having in the market.

Having said that, I do not want to get into the issue of who is best to raise it, but the fact that they are a critical part of the link within an embassy is clear I just want to point out that in the case that we are discussing here today in El Salvador, that the Department does not have any commercial presence in El Salvador.

Mr. MENENDEZ. How many full-time Commercial Service officers do you have in the hemisphere?

Ms. VARGO. We have 42, I believe, 42 officers in 33 countries. Now, our total staff approaches 298.

Mr. MENENDEZ. How many of those are in Mexico?

Ms. VARGO. I can tell you that if you will bear with me for a moment.

Mr. MENENDEZ. Sure, I will bear with you, as long as the Chairlady will bear with me.

Ms. VARGO. Nine of those officers are in Mexico.

Mr. MUNOZ. I just wanted to—I am sorry.

Ms. VARGO. I just wanted to mention one other thing, though, which is the step-wise nature of this process. Because the Congressman just brought up Mexico, and, of course, we have had NAFTA there, to provide a rules-based trading environment. We have had some share of difficulties from time to time in certain provisions of that agreement, but I think we can see progress. What I wanted to point out was the Mexican Congress just last month, I believe, passed an administrative procedure bill. This is the first time in Mexico that a ministry will be required to provide advance notification of its intent to change a regulation and to establish a comment period to bring in the advice from relevant parties. I just wanted to point that out as a positive step, I think, in

the direction of increasing transparency, which I believe is the point that you raised earlier.

Mr. MENENDEZ. On the Foreign Commercial Service, let me just say that when you take away the nine from Mexico, that leaves you with between one or none in each country and that is to do all of the advocacy, all of the problem solving, all of the opportunity search that goes on with that country. It is an enormous—it is the equivalent of the 1,800 children that my wife has as one counselor in a school. I mean, you just do not reach what you need to do.

And obviously, one Foreign Commercial Service officer, particularly, maybe in some smaller countries, but particularly in Brazil, in Argentina, in Venezuela, in Colombia, in Chile, I would hate to be that Foreign Service officer doing all that work.

Mr. Munoz.

Mr. MUNOZ. One comment is that many of our American businesses actually see OPIC as mitigating the very risk that you speak of. Corruption, when allowed to exist, does, in fact, exist, and many of these countries that are in transition are trying to adapt to the international standards but they will come at it very slowly unless forced to do so.

So, No. 1, American businesses do have an alternative, for a price, but we believe it is a fair price, to mitigate some of that risk with the presence of the U.S. Government if we, in fact, attach ourselves to the project, we do the kind of due diligence that will assure the government that we ourselves approach it, our American investor approaches it in a very transparent manner.

But where I believe Congress can be very helpful and this Committee can help take that lead is the best eliminator of corruption is alternatives for capital to go to other countries that have less corruption. Many of our Western counterparts, European Western countries that are as well off as the United States to send investments to the developing world, they do not have a Foreign Corrupt Practices Act as we do, Representative Menendez. They do not have some of the standards that we have for our American businesses. I believe that harmonizing upward is a good thing for us to do and every opportunity that this country has to bring it up to our counterparts, developed industrialized countries, that we expect their companies to also promote this will be the best way to go.

We are already seeing that those countries, like Singapore, that have low corruption and a high level of transparency actually attract more money, more capital inflows. So to the extent we could set the model in Latin America that the countries like Chile and a few others, maybe Costa Rica that have reasonable reputations in this regard, as we show that they are attracting more capital, hopefully, that will set the trend for the other countries to follow.

Mr. MENENDEZ. Thank you, Madam Chairlady, for the time. I appreciate it.

Ms. ROS-LEHTINEN. Thank you. Mr. Manzullo.

Mr. MANZULLO. Thank you very much. Mr. Samuel, if you need some help on how to resolve a complicated international case, I would suggest you look at the man to your left. He and I had some earnest discussions about 6 months ago and he got it resolved, so he knows how to do it.

Mr. Munoz, I am going to ask you a question about this. I have never seen questions asked about a witness to come afterwards, but in that particular case where embezzlement took place by, I believe, employees within the company, would there be a form of OPIC insurance that would insure against that type of risk?

Mr. MUNOZ. Indirectly, yes. We have instances where an American business expects the court systems to work, and if, in fact, the judicial system is not independent, if, in fact, we see that the government is either not fulfilling its responsibilities or, in fact, siding with the locals on it, we could view that as a corruption on the part of the government and interference with the judicial system that could trigger our political coverage. It all depends on actual facts. But we have one in other parts of the world where what would look like a private dispute with the counterpart actually ends up triggering political risk insurance because the government, in fact, assisted the local as opposed to abiding by independent judicial—

Mr. MANZULLO. Because of a corrupt judiciary?

Mr. MUNOZ. Yes.

Mr. MANZULLO. That is interesting.

Mr. MUNOZ. If the government, in fact, supports it, yes.

Mr. MANZULLO. That would be another reason to tout the use of OPIC in countries like that.

Mr. MUNOZ. We believe, as the U.S. Government, we have been wanting these countries to become democratic and open up to free markets. We have an unprecedented amount of response to that call. It is important that those countries succeed in their democratic ways and in free market ways. If they do not, we are afraid of a rebellion or a backlash toward both democracy and free market. So we do go the extra mile, as all of our departments do, to go the extra mile for it to make sure that those businesses succeed. But our political risk insurance, in fact, is one that adapts to today's problems.

Mr. MANZULLO. But you do not really want to advertise that because that could encourage—

Mr. MUNOZ. For a fee, we will definitely protect whoever wants it.

Mr. MANZULLO. I have two questions. What tools would be available by the United States against El Salvador with regard to this corruption that took place? Second, I am intrigued by OPIC's entry into the housing market in Latin America. George, could you comment on that second question? How would that practically work?

Mr. MUNOZ. Yes, sir. There has always been a demand for housing. The problem is accessing long-term capital to finance the homes. A local buyer will not default on their home mortgage, even in countries—however, if their currency loses value because of devaluation, they can still only afford to pay in local currency what they obligated themselves to pay. So that devaluation risk has been keeping the capital markets from financing mortgages in the developing world.

OPIC has been working and analyzing ways in which to look at devaluation over time, and we have discovered that there is investor appetite to provide long-term lending for countries that have reasonable property rights so that if, in fact, there are defaults, there are good mechanisms by which to recover your investment.

And as long as we are able to do it prudently and have investors walk in and for us to provide political risk insurance against the inconvertibility of local currency, so that if there is local currency we can still convert it to dollars, to provide some level of risk similar to what a private mortgage insurer might provide, a small pool of funds that gets up during the good times and gets utilized during the hard times, we believe that, over time, you can still have a commercially viable housing project.

But we are still in the process of doing that, and as I said, we are very, very close to coming forward with a model. We have been working with Wall Street. We have been working with the housing industry. By the way, I am sure you know this, but the housing industry in the United States, everywhere from the construction side to the financing side to the mortgage servicing side, is the best in the world, and so we have the expertise of what would be required of these countries, and we have the cooperation. The countries that we have made contact with, which have been in Central America because of the hurricanes, and that is where the Administration has been focused—

Mr. MANZULLO. So how would that practically work?

Mr. MUNOZ. Well, there are various models.

Mr. MANZULLO. Or have you worked that out yet?

Mr. MUNOZ. There are various models, but one way to do it is that we can have investors buy bonds that will fill up a pool of funds for financing mortgages.

Mr. MANZULLO. Would those be American bonds?

Mr. MUNOZ. Yes, sold in the United States, and that would trigger OPIC's ability to wrap its political risk insurance coverage against those bonds. Those bonds, the financing, the money raised from those dollars from America would be used to finance housing in these countries. To the extent that there is no devaluation or during the good times, as I call them, then that pool of funds would actually grow because you are charging an interest rate that has a premium attached to it.

When and if there is a devaluation, then you would tap into that fund very much like private mortgage insurance does, and studies show that, over time, you will come out even or ahead, and those are the ones—we are trying to calculate how much money will have to be in that fund and what is the right break-even time period.

Mr. MANZULLO. So OPIC would provide some type of risk insurance to the investors in those bonds—

Mr. MUNOZ. Yes, which would be American investors.

Mr. MANZULLO. That is pretty interesting.

Mr. MUNOZ. It would be a breakthrough, and I have to say that that is what built this country's middle class. All of these countries, that is what they are asking for, No. 1, and if I could just say, right now, the jury is still out on all of this globalization, privatization. Many of the people in these countries are viewing the upper class, economic class, doing well in the new economy, the new privatized economy that they are going into.

But the masses of people are still seeing what Chairperson Ros-Lehtinen pointed out. They are seeing income disparity. They are still seeing poverty. And we believe that the housing program is one thing that can address the masses, and if the masses see light

at the end of the tunnel in this new open markets and democracy, we believe that they will stick to the direction that their countries are headed in.

Mr. MANZULLO. Thank you very much. I did not leave time for anybody to answer my first question, is that OK? Maybe, Mr. Samuel, you would know what tools would be available.

Mr. SAMUEL. Yes.

Mr. MANZULLO. Or at least what tools you would like to talk about.

Mr. SAMUEL. Exactly. There is the full range of diplomatic, I guess, options. At this point, because it is still in the courts and it is under appeal, we continue to just put direct pressure on the Salvadoran government to make sure that the case is held in a transparent and proper way. Beyond that, because it is the area of criminality, let me, in fact, because of the time issue, get back to you with a better answer in terms of what our options are in the criminal area.

Mr. MANZULLO. I can understand that. Thank you very much. I appreciate it.

Ms. ROS-LEHTINEN. Thank you. Mr. Delahunt.

Mr. DELAHUNT. Yes, thank you. Let me just say, Mr. Munoz, that is a great concept and I think you are so right. I was not here when the Chairlady spoke to the issues of income and wealth disparity, but it is certainly echoed everywhere, not only in the developing world but in the developed nations in terms of the impact of privatizations. Housing is something that could well assuage some of the concerns that we hear expressed and that I think are very real. But I had never, until now, heard this particular proposal.

But it does, it plays to our strength, which is housing. Once the concept is fleshed out and the details are developed and you are ready to presumably go public, I would appreciate a call, because I know there are a bunch of developers up in New England that are real proficient in terms of affordable housing that would be very interested in this particular concept. I would like to be right at the top of your call sheet on the issue and would suggest that maybe even an unveiling of this, or at least a conference in Boston, I am confident would produce a very strong response. So having said that—

Mr. MUNOZ. We will, if Madam Chair, who is the chair, says that it is OK to put you on top of the list above her name.

[Laughter.]

Mr. DELAHUNT. I asked first, though—

Mr. MUNOZ. Yes, you did.

[Laughter.]

Mr. DELAHUNT [continuing]. So it comes not in honor of seniority or even ability, but just—

Mr. MUNOZ. That does not work that way.

Mr. DELAHUNT. It does not? I keep learning that.

Mr. MUNOZ. It is a good try.

[Laughter.]

Mr. DELAHUNT. But the issue here in terms of challenges and encouraging investment, so much of it goes back to the issue of the courts, the rule of law and the ability to have a confidence level in terms of an independent judiciary, and that is really what we are

talking about. And the question, I think, that Mr. Menendez asked relative to asking about specific cases, that is tough because we have, in terms of our own constitutional history, this concept of separation of powers.

I have a little difficulty myself. I mean, I presume that what we will hear from this next witness about the case is outrageous, egregious, and something ought to happen, but viscerally, coming from the justice system myself, what does any executive foreign government or legislature have a right to interfere, particularly when we are trying to nurture judicial independence. So I can see some philosophical issues there.

At the same time, my other committee, my primary committee is the Judiciary Committee, and I have had a lot of conversations with members of the judicial conference that are doing a lot of training in Latin America and they really feel encouraged by what is happening. Is that information coming into the executive branch? Are you aware of that and is there a gap between what is happening as far as the executive branch is concerned and what our judiciary is doing? That is just one quick question.

Then I thought that this idea of certification, corruption certification, maybe it is embraced in the treaty. I do not know whether it was simply a concept or a term put forth by the Chairlady. I am only musing here, the idea of the certification of an independent judiciary prior to maybe access to certain, well, whether it is FTAA or whether it is CBI or whatever it holds might be worthy of consideration.

Let me just be specific, too, about CBI for a moment. What we see happening, at least I believe, in a very cursory way in terms of the Andean region countries, there are some real problems going on in these nations right now. In Peru, we have a lot of social unrest. We have an election that is, at best, raising concerns among not just the United States but other nations within the hemisphere. In Ecuador, we have an economy that is so bad that they have had to resort to dollarization. In Colombia, that speaks for itself. In Venezuela, it is my understanding that after the contraction of about 7.5 percent to date, there is a further contraction of some 2 percent, despite the fact that there has been an upsurge in revenues because of the increase in oil prices.

I mean, I see that as an area of potential great instability and I wonder your thoughts, now that CBI has passed, about the addition, particularly in the area of Venezuela and Colombia, to add those particular nations since they are Caribbean nations to the CBI. I guess that is it, and if in the area of both Venezuela and in Colombia, where there has been such a huge issue and for decades now about the independence of the judiciary, to make access to CBI predicated on some sort of certification, using the Chairlady's phrase, predicated on finally a process through which it verified that—I just heard a nasty word from my right, but I will resist. Anyhow, you get the drift. Thank you.

Ms. ROS-LEHTINEN. The nasty word was "sanctions."

[Laughter.]

Mr. DELAHUNT. I almost thought he said "embargo" for a minute.

Mr. SAMUEL. Mr. Delahunt, thank you. I hope that there is not a gap in our knowledge of what is going on with the judiciary train-

ing. In fact, we actually paid to bring a lot of the judges up here to meet with our judiciary through AID programs, and I hope that we are tracking that, and, in fact, we have been invited to a number of those sessions.

We agree with you that the situation in all of the Andean regions is precarious, and part of it, and through the Colombia, Plan Colombia that the Colombians have come up with and some of the legislation that we have proposed addresses not just Colombia but its neighbors, as well, and would look at some of these issues.

Right now, Peru, Ecuador, and Colombia are subject to the Andean Trade Preferences Act and that Act comes up for renewal, I think, in December of next year, and at that time we certainly would again revisit the whole question of conditionalities that might apply to—

Mr. DELAHUNT. Could I just interrupt for 1 minute?

Mr. SAMUEL. Yes.

Mr. DELAHUNT. But that certainly does not compare with the benefits of CBI.

Mr. SAMUEL. You are exactly right, because—

Mr. DELAHUNT. And both, if I can just go further for a minute, both officials at the highest level of both governments have indicated to me that it would absolutely in a significant way benefit those nations and could very well, in the case of both Colombia and Venezuela, significantly—in the case of Colombia, significantly advance the peace process, bring stability to Colombia and as far as Venezuela could advance the cause of real democracy in Venezuela substantially.

Mr. SAMUEL. No, agreed, and especially with this passage of an enhancement of CBI just in the last week. That does make a distinction between the Andean preferences and the CBI preferences, and so certainly textile production in Colombia would be put at a disadvantage compared to textile production in the rest of CBI. The Colombians have raised this with us. We do not have a solution yet. We need to see—to continue to talk to the Congress to see whether the time is right to bring them in, to bring them into the CBI.

Ms. ROS-LEHTINEN. Thank you so much. Mr. Cooksey.

Mr. COOKSEY. Thank you, Madam Chairman. You can choose to answer this question, but specifically, I would like to know your opinion about Venezuela, Chavez. What are the chances for stability, proper judicial procedures, nationalization of industries, American-owned industries, American-owned businesses?

Mr. MUNOZ. Representative, I have some concerns about President Chavez's administration, at least in part. The signals have been mixed at times. The president has talked about ridding the country of corruption and making sure that there is transparency, but yet there are some experiences of American investors that we know of and that we are working with where, clearly, the obstacles put in the place of those investors have every indication that they are meant to dissuade and break away from what seemed to be a transparent process beforehand.

I believe that the signals are mixed. Nonetheless, I do believe that we have to work closely with the country. It is an ally. It has very important economic ties to the United States. We understand

that it is going through an election process and perhaps some of the mixed signals that we are getting on the investment side are due to that. But I would have to say, I know that the State Department looks at it in a much, much broader area. We just look at it from the international investor community and the signals are mixed. Some of them are very worrisome.

And at OPIC, anyone right now that is requesting assistance for financing especially in Venezuela, we want to make sure that if it is strictly private to private sector, we have fairly good confidence at that level. If it involves the government in any fashion or way, especially the government agency Le Pedevesa, which does now have some of President Chavez's people in that parastatal, it would give us pause. It would not stop us, but it would give us pause and we would have to do some very close review of the facts plus dialogue with the Administration.

Having said that, I have to say that we are very well represented. Our embassy there is very strong, has very strong ties with the Administration and usually our voice does get heard.

Mr. COOKSEY. So OPIC is still in Venezuela and still supporting some investments by Americans there?

Mr. MUNOZ. Yes, sir. We are still there, and because OPIC's total existence is to confront these kinds of political risks, we do not walk away from them, but we do try to point them out to the Administration and to the investor community worldwide about what concerns might exist or might not exist. We will remain active, but it just means that the projects that are there require a lot more time and effort on our part.

Mr. COOKSEY. Ms. Vargo, I am directing this question to you assuming this interpretation of your title and position is correct. I understand that the European Community and the Latin American community have negotiated a bi-regional trade agreement. How will this affect U.S. investors? What will be the short-term impact, long-term impact?

Ms. VARGO. Well, we have two different things going on right now in Latin America. One, we have the agreement that the EU has concluded with Mexico and then we have the talks that they have initiated with MERCOSUR. I think the MERCOSUR talks have a long time horizon. In fact, it is pretty clear that the EU is trying to take advantage of the breathing space that they see between our lack of fast track, and the conclusion of the FTAA in 2005. They have tried to arrange their time table in the same way.

But looking to the Mexico-EU agreement, we did take a look at whether or not it would in any way encourage the movement of investment to Mexico. About 60 percent of Mexican output already entered the EU duty-free under a variety of different schemes. So we did not see it making a big difference in terms of attracting more E.U. investment.

What we have found in taking a look at the agreement is by line in comparison to NAFTA that the EU will end up with better tariff treatment than the United States in about 400 tariff line items. So we will be going back to the Mexican government with this through the NAFTA tariff acceleration process and try to find a way to level that playing field. Mexico did not do anything to break the terms of the agreement, but we obviously want to see the interests of U.S.

companies well represented to make sure that they are not disadvantaged.

Going back to your investment question for a moment, I think that many of the investment provisions and protections that are in the NAFTA remain, if you will, the state-of-the-art in terms of providing a way to avoid recourse to the local judiciary. A lot of people forget that Chapter 11 of the NAFTA was set up to allow an investor to take a dispute settlement case directly to binding arbitration and avoid the court system.

So, I do not see a big investment impact in the short term from the EU-Mexico deal. I do see some potential trade impacts that we will need to address, although they will be relatively minor. It is still too early to say on the other one, frankly.

Mr. COOKSEY. Thank you. A quick question, and hopefully a quick answer. How about Spain? Are they the biggest trading partner in Central and South America and do they negotiate for all the rest of the EU their competitive and language advantage or not?

Ms. VARGO. Well, the circumstances are always changing. Yes, Spanish companies are some of the biggest investors in Latin America, especially in the MERCOSUR region. Europe is actually the biggest trading partner for MERCOSUR, not the United States. And you have very large Spanish companies like Telefonica, being very active throughout Latin America.

It is not really clear if Spanish companies negotiate or operate on behalf of other European countries. What you do have, though, is a rotating system of the presidency in the European Union and you tend to find that when Spain or Portugal is in the presidency, there is a greater political momentum to enhance the commercial relations with Latin America than you might find, say, when there is a Northern European country in the chair.

Mr. COOKSEY. Well, fortunately, Spain has a booming economy now. They are moving away from the socialism that so much of Europe has been bound to for so many years, but it is good for Spain.

Mr. Samuel, an open-ended question, Colombia. What is the potential for solving the narcotics problem there, the economics problem, the judicial problem, and what is the potential for long-term future investment, participation, relationship with Colombia?

Mr. SAMUEL. OK. Thank you. Colombia is a gigantic question mark. It has been the center of our attention on counternarcotics for a long time. With the changing government, with the Pastrana administration coming in, we see the opportunity to, in fact, get improvements in that cooperation. The economy, which used to be a model economy in Colombia, has just suffered from the corruption, the narcotrafficking that has been there.

Long-term, Colombia should be able to get itself in order, should be a great opportunity, but it is going to be uphill. It is totally uphill for it to get that way, and that is why the various plans that the Colombian government has put forward, the request that the Administration has made for supplemental funds to address Colombia.

Secretary Albright has, in fact, identified Colombia as one of the four democracies that provide the biggest challenges to U.S. foreign policy in the world, and so the attention we are putting on it is second to none in terms of the political attention for Latin America.

So again, long-term, it has the potential to be a great place to invest, a great place to do business. But until we get the narcotrafficking taken care of, before we can do something better with the narcotics, we are not there yet.

Mr. COOKSEY. When we voted the legislation in the House for the \$1.7 billion or whatever it ended up, there were some Members of Congress that questioned that but voted for it anyway. What did you do, Bill, did you vote for it?

Mr. DELAHUNT. I know the gentleman is looking at me, so presumably he is yielding some time. I voted against the final bill because it did not include the Kasich-Frank amendment dealing with the issue of European participation in the post-Kosovo conflict.

Mr. COOKSEY. Well, you can say there were mixed opinions, and I will not put the chairwoman on the spot, I will try to be a little bit more gentlemanly, but—

Mr. DELAHUNT. I would suggest you could do that.

Mr. COOKSEY. All right. What did you do on the bill? Anyway, there were mixed opinions, there were real passions on that vote when we voted in the House, and you can see what is happening in the Senate, zero. The Senate is like a bunch of gray-headed old men that cannot make up their minds anyway, that do not have any courage—

[Laughter.]

Ms. ROS-LEHTINEN. Watch out for those gray-headed old men.

Mr. DELAHUNT. You can tell these self-term-limited members.

Mr. COOKSEY. But anyway, it is a problem and it is a valid concern. That is a lot of money for the American taxpayers to be expected to put down there, put into a country that, Lord knows who will end up with these Blackhawk helicopters. I was in the military 30 years ago and I believe in using the military effectively as an instrument of foreign policy. I am not always sure it has occurred the last few years. It has been done wrong in previous administrations and this administration, and yet I really would like to have the people of Colombia get rid of the narcotraffickers because it impacts us.

Mr. SAMUEL. Yes, it does.

Mr. COOKSEY. It impacts our children, our society. It is a real issue. Thank you.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Cooksey, and thank you so much, all of the panelists who are here.

Mr. Munoz, if you would like to make some concluding statements.

Mr. MUNOZ. I just wanted to say that thanks to the help that I received from this Committee, OPIC, in fact, has put a lot of effort in small business in the Caribbean, and if I could just call up, we have been always asked about what projects we are helping and who is being helped, and thanks to the encouragement of this Committee, as you can see, this is on our website and anybody around the world, certainly American businesses, can click on any country, let us say the Dominican Republic.

This is live right now on the Internet. They can click on and look at what we have done here in this country. You will notice it will tell how much we are invested in the country. In this case, if you look at this, our support has created over 21,000 jobs in the Domin-

ican Republic. We think that people from New York, from New Jersey are very appreciative of those efforts.

The small businesses can also take a look at all of the programs that we can have here and download from the Internet our applications, our small business forms. We also have a section here on challenges, and what Representative Menendez was speaking about we also point out as some of the challenges that are striking the community. We believe that this is the best way to leverage what the U.S. Government has to help the U.S. business person. Thank you.

Ms. ROS-LEHTINEN. Thank you so much. Thank you to each and every one of you. We look forward to getting further communication from you regarding the corruption practices in other countries and streamline the levels of communication so that the people who do have some jurisdiction over these problems can get the information in a timely manner. So thank you for coming here today.

To complement the expertise of our first panel, I would like to introduce two gentlemen who will be our second panelists. They have been in the field and know firsthand the prospects, and more importantly, unfortunately, the problems of doing business with Latin America.

First, I would like to introduce Mr. Carlos Loumiet, the principal shareholder of the law firm of Greenberg Traurig, where he heads the firm's banking and international practices. In addition, Mr. Loumiet currently chairs the Florida Latin America Internet Task Force, which was established to promote the emergence of South Florida as a center for Latin American and Caribbean e-business.

Finally, I would like to introduce Mr. Robert Zamora, President of the Latin American Financial Services Corporation, one of the largest financial organizations in Central America, Venezuela, and the Dominican Republic. Mr. Zamora is also the President of the Central American Credit Bank in Managua.

Thank you, gentlemen, for your testimony. We all look forward to hearing your insight. Your statements will be placed in full in the record and we would like for you to summarize your thoughts. Thank you. Mr. Loumiet.

STATEMENT OF CARLOS E. LOUMIET, CHAIR OF INTERNATIONAL AND BANKING PRACTICES, GREENBERG TRAUIG

Mr. LOUMIET. Thank you very much, Madam Chairwoman, Mr. Menendez. Thank you for having invited me to come today to testify before this Committee.

You have already mentioned that my written comments will go into the record, so I would like to digress a little bit from my written submission and touch on some of the issues that have been raised today.

The first thing I want to note is that we have come a long way. I have been working with this hemisphere for 23 years now. There are still many problems throughout the hemisphere, but if you look back almost a quarter of a century, the period of time that I have been representing U.S. businesses abroad, there is no question that the rule of law has come a long way throughout the hemisphere over that period of time, and particularly over the last 10 years. I

am not trying to present a rosy picture, but I am trying to give some perspective.

Obviously, one of the areas that is still a major concern is the area of corruption, as Mr. Menendez pointed out. I have to say, I did not focus on corruption in my written statements today, but I have certainly had to deal with it often enough throughout the hemisphere over the last 23 years, and I have to say that it is a very prevalent problem. It is something that I have personally seen over the years, probably 10 or 12 times, severely affect U.S. business and its ability to compete throughout the hemisphere.

I have to say, in all honesty, that in my experience, the State Department has been, certainly in my experience, very ineffective at dealing with the problem of corruption abroad and in representing U.S. companies abroad, and I do not know if that is because the State Department has to deal with the relationships with a foreign government on so many levels that it cannot focus solely on the problems of a company in the country but has to worry about the whole span of interaction between our country and the country involved. But there is no question in my mind that on the occasions in the past where I have heard of or I have been involved in trying to obtain State Department assistance in this field, that the State Department has been very slow to move and really not as supportive as one would have hoped of U.S. business.

Now, in terms of the FCS, the Foreign Commercial Service, as Mr. Menendez suggested, the local people are completely overwhelmed. There are not that many of them to begin with. And at the same time, I am not sure that they are equipped to investigate instances of corruption—I do not think that is their training—or even to advocate in situations like that as effectively as, for example, the Justice Department might be able to do.

I wanted to suggest that as I listened to the conversation earlier, I thought that there might be some advantages to having the Justice Department involved in this area in terms of helping U.S. business abroad. One of the advantages that I see is, frankly, that the Justice Department is better trained in terms of investigating instances of corruption and presenting a case that would be perhaps much more compelling in terms of trying to convince a foreign government as to what had happened.

Second, the Justice Department already has jurisdiction over the Foreign Corrupt Practices Act, and they are also responsible for the implementation of the treaty, the OECD treaty, which was enacted in late 1997, which parallels the Foreign Corrupt Practices Act and requires all of the OECD member countries, I believe there are 37 of them, to progressively implement steps that will lead to a similar result to what we have now under the Foreign Corrupt Practices Act, prohibiting companies and individuals from their countries in bribing overseas in connection with obtaining foreign business.

If and when Congress passes the Inter-American Convention on Corruption, that, too, would be the jurisdiction of the Justice Department, the implementation of that treaty.

So as I think of this, I think that it might be wise to think in terms of creating some sort of a joint effort between perhaps the

State or Commerce Department and Justice in this field and allowing Justice to play a relatively important role in that area.

I also want to mention the obvious, which is that, frankly, for the individuals who may have engaged or may have been involved in the corruption abroad, the idea of the U.S. Justice Department being involved is far scarier than the idea of having either the Commerce Department or the State Department involved. Those individuals may want to come to the United States at some future date. They are going to worry about what the implications might be for them when they come here. So I would like to suggest that perhaps we could more effectively assist U.S. companies in dealing with corruption throughout the hemisphere, and it clearly is a problem, if we use some of the abilities of the Justice Department and not just rely on the State Department and the Commerce Department in this field.

Having touched on the issue of corruption, a lot of my presentation was about the Free Trade Area of the Americas. Well, one of the problems with not being one of the first people to testify is that by the time you get to speak about your presentation, it may already have been beaten to death, and I think that the panel here did a very effective job talking about the Free Trade Area of the Americas in general, and to spend a lot more time on it would be a little bit like bringing coal to Newcastle, as my English friends would say. So I would just like to make a couple of points about the Free Trade Area of the Americas.

First of all, obviously, the devil is in the detail, and the question is what is this treaty going to be. If it is properly drafted and prepared, then I think it could help a lot with a lot of the problems that the chairperson and Mr. Menendez have already identified as problems that face U.S. companies abroad throughout this hemisphere. So the actual drafting of the treaty and the preparation of the treaty will be crucial.

For now, that process is still underway and it will be underway for several more years. For now, what I would like to recommend and urge is that we have a—I know that in the pending budget for fiscal year 2001, there is a request for an appropriation to help with the temporary secretariat, the administrative secretariat which has been operating in South Florida for the last couple of years, and I would like very much for this Committee and for Congress to look favorably on that appropriation. I think it would speak volumes to the interest of the United States in such a treaty. Congress has already passed, both houses have already passed a sense of the Congress resolution to the effect that if the FTAA is enacted, that the appropriate place for it to be headquartered if that headquarter is in the United States would be South Florida.

I think that if Congress were to pass this requested budget appropriation, it would be a very strong statement by Congress that all of the preparatory work being done is not going to go to waste and that the U.S. interest in this FTAA remains as strong as ever and that we believe that, sooner or later, we will implement such a treaty, even if we have to go through some pains to get to a treaty that we think is appropriate.

Next, I would like to mention the area of foreign competition. As someone who represents U.S. companies and also foreign compa-

nies active throughout Latin America, I want to emphasize what Ms. Vargo said. Foreign competition throughout Latin America is very, very—foreign competition to the United States is very active today. In particular, there are Spanish corporations that have become very prominent throughout the region, have undertaken a series of acquisitions and very visible investments over the past few years.

If the United States does not move forward with its own plans in terms of creating a Free Trade Area of the Americas, we may wake up 1 day and find that we are at a competitive disadvantage with Europe and the Far East in terms of trade with this hemisphere. That would be extremely ironic, given the long-term relationship that we have had over the last two centuries, the close ties that we have had throughout this hemisphere and the fact that this hemisphere is one where, overall, the United States is seen extremely well. It is admired overall and American goods, American products, American services are valued. It would be absolutely disastrous for the future of the United States to find ourselves in a secondary position in terms of business and trade throughout this hemisphere vis-a-vis Europe.

Finally, I would like to mention the issue of the rule of law, and everything that, Mr. Menendez, that you have been speaking about today really has to do with the rule of law, and that has a series of interrelated dimensions. Yes, it has to do with corruption and it has to do with the importance of an independent judiciary, an independent and honest judiciary which is capable of acting as a check and balance on an otherwise unbridled executive. It has to do with the adherence by governments to their own laws and to due process. It has to do with the honoring by governments of contractual and treaty obligations that they have incurred.

It has to do with the tolerance of a free press, which itself is an incredible check on excesses of government. I am reminded that over 200 years ago when Thomas Jefferson was asked whether he felt it was more important to have a legislature or a free press in terms of a body that could act as a check on the excesses of the executive, he responded that he felt that a free press was even more important than a legislature in terms of protecting individuals against excesses of the executive. It also has to do with the observance of human rights and the respect for private property.

There are some trouble areas right now in this hemisphere. They have already been touched on. For reasons that I think are coincidental, they tend to revolve primarily around the Andean Pact countries. Peru, of course, has been a very troublesome situation for the last few years. This Congress on at least two occasions has criticized certain actions by the Peruvian government, particularly in connection with the press, the freedom of the press and, among others, the case of Baruch Ircher and the TV station that he had down there. The Peruvian government has been criticized by our Secretary of State, Madeline Albright, by the European Union, by every major international press association and many leading newspapers in the United States, and by all of the principal international human rights organizations. There is an election coming up in 12 days. It is very important that the United States remain keenly observant of that election to ensure that it is fair and just

and that the result does, in fact, reflect the interests of the Peruvian people and their desires.

Ecuador is another country that right now is going through a lot of difficulties. They need our assistance as they implement a dollarization plan which is absolutely crucial to the future of that country. However, somewhat disturbingly, in recent months, the Ecuadorian government simply intervened, a 75-year-old U.S. power company operating in that country, a company called Empresa Electrica del Ecuador, EMELEC, a Maine corporation, and the government simply, on March 31, 2000, simply had troops move into the main operations of the power plant and since then there have been a series of negotiations which so far have proven fruitless, but one would hope that the Ecuadorian government would realize the importance of due process and respect for private property as well as its own obligation to honor its treaty and contractual promises as a key point of being able to promote the development of Ecuador.

Certainly, this is a bad precedent in terms of the impending privatizations of other enterprises in Ecuador, and as well in Colombia, as have already been discussed here at length today, so I do not want to spend a lot of time on them other than to mention that I personally believe that the aid package for Colombia is crucial. I think of a Colombian government controlled by the FARC or the other terrorist organizations and it fills me with dread in terms of what those consequences might be for the entire Southern Hemisphere, not to mention the consequences here in the United States in terms of the drug problem that we have.

Thank you very much, and again, I am very grateful for the opportunity to appear before you today.

Ms. ROS-LEHTINEN. Thank you so much.

Mr. Zamora.

**STATEMENT OF ROBERT J. ZAMORA, PRESIDENT, LATIN
AMERICAN FINANCIAL SERVICES**

Mr. ZAMORA. Thank you. Honorable Chairperson Ileana Ros-Lehtinen and Mr. Robert Menendez, Subcommittee on Economic Policy and Trade, I would like to thank all of you for giving me the honor to testify on this official hearing about conducting business in Latin America, challenges and opportunities.

We have experienced and continue to see how the world of business and politics has changed dramatically in the past two decades. The landscape of the investment in the United States has evolved, making financial markets accessible to the individual investors. In this new era of information, the Internet and faster telecommunications have shortened the distance between countries. In the political aspect, the Cold War has ended and the expansion of democracy has taken place.

Latin America has not been an exception to these changes. We have seen how countries that 20 years ago were dictatorships have transformed into incipient democracies. The investment climate in the region has become more favorable in many aspects to U.S. companies who have increased their investment in the area, interested in Latin America as a large market of 500 million people. However, there are still many situations that need to be changed so that U.S.

investors can take full advantage of the potential of doing business in Latin America free of risks associated with social problems, inefficient laws, and a weak judiciary system.

Recent World Bank figures indicate that in all countries in Latin America, poverty levels remain very high, despite an expansion in their economies. Moreover, the gap between those who have the money and power and those who live in misery has increased tremendously. So how is it that investment has increased and there is more poverty than before?

The answer is simple, yet complicated to solve. First of all, government corruption is seen in many countries. The persons who in a true democracy have to rule in representation of their people are only taking advantage of their position. Thus, the social programs make no difference in the poverty levels.

Second, the judicial systems are obsolete and inefficient. They are not independent and impartial institutions, but systems that contribute to the chaos and unfairness in these countries.

An increase in poverty brings social discontent, which in turn may lead to social crisis and/or to the return of populist dictatorships in the region. Some examples of this situation have been observed in Ecuador, Bolivia, Venezuela, Colombia, Peru, and Argentina. The danger is imminent also in Central America.

Social crisis, united with investment risk due to the nonexistence of fair and clear rules of the game will not only inhibit more investment from coming to the region, making it a lost cost of opportunity to explore the large market. It will also affect negatively the existing U.S. companies who do business in the area.

As an American citizen who has been doing business in the region for 15 years, I have had a terrible and frustrating experience in El Salvador. On September 3, 1996, the manager of our corporation was assassinated in San Salvador. Months later, auditors of KPMG, Peat Marwick discovered that \$3.3 million had been embezzled from our company by a group of individuals who opened accounts at El Salvador's two largest banks using fake information.

We filed a lawsuit against these persons, and to our dismay, in December 1999, despite overwhelming evidence collected by Salvadoran authorities—the attorney general, the police, and the superintendent of the bank—indicating that fraud was committed, the judge presiding the case ruled in favor of the embezzlers.

This action has caused a tremendous consternation in El Salvador, to the point that the head of the supreme court has called for an investigation of both the proceedings and of the judge. Additionally, editorials written by the country's main newspaper, *El Diario de Hoy*, and the highest rated TV station, Channel 12, have asked the supreme court to overrule the judge's decision.

Four Members of Congress have written letters to President Francisco Flores requesting that Salvadoran laws are respected and that the presidency conduct an investigation on this matter. These actions have been unproductive since, to our surprise, 4 days ago the court of appeals dismissed the case in favor of the embezzlers.

Our case is only an example of the danger of conducting business in Latin America under the actual circumstances, showing the economic insecurity that prevails in the region.

Three conditions have to be improved in order to truly develop the high potential and excellent opportunities that Latin America may present to U.S. investors. First, to strengthen democracy, along with its institutions and governmental branches and decrease corruption to the minimum. Second, to define clear and fair rules of investment and make the judiciary system become independent and reliable. And third, change the quality of life of the poor people.

The United States can play a big role in the enhancement of those three conditions. Every year, the United States administration by law certifies foreign governments in their willingness to eradicate the drug trade. This certification process has proved to be effective. I believe the U.S. Congress should very well include as part of this certification process a "zero tolerance corruption index." Is this is successfully implemented, we can be sure that the dream of a better region with growth, prosperity, and peace will be achieved. Thank you.

Ms. ROS-LEHTINEN. Thank you so much.

Mr. Menendez.

Mr. MENENDEZ. Thank you, Madam Chairlady. Again, let me thank you for the hearing.

Mr. Loumiet, I appreciate some of your comments and we might be calling upon you in pursuit of some of the issues that you raised. I think the observation, including the potential of an interagency approach with the Justice Department on these corruption issues, might very well be of value, so we will look forward to speaking to you and for your insights on that, as well.

Mr. LOUMIET. Thank you, Congressman.

Mr. MENENDEZ. Mr. Zamora, let me just say I have privately spoken to you about your case and your company's case and I am glad that you were able to come before the Committee because it is only by way of example that we can sometimes dramatize the reality of many, many companies that are in a similar set of circumstances, maybe not the facts of their specific issue, but the consequence of doing business in a country in which there is either lack of transparency or a system of law that does not enforce the law fairly in the process.

I know one of our colleagues mentioned that it was somebody from the company, but I think your statement clearly says that someone was assassinated and then subsequently in an audit it was found out that others were in the midst of such an embezzlement. Even if it were so, it is not necessarily the facts at hand that it was individuals in the company, but even if it were, that does not go ahead and undermine the fact that you should be able to prosecute those individuals in a court of law and be able with those facts obtained by the authorities of that country to be able to pursue your claims against those individuals, both criminally and civilly. So I think you do a service to many others who are similarly situated in doing business in Latin America to come forward with your specific case and we appreciate it.

For myself, I think we got some attention here today, but I think that our point, Madam Chairlady, is we cannot hold a hearing for every meritorious claim and we need a system by which, in fact, we do our advocacy on behalf of U.S. citizens and businesses who

are doing business within the hemisphere and that we have a systemic approach to dealing with these issues, both in terms of the agreements that we sign as well as with the State Department and the embassies working to do so on behalf of businesses and we look forward to working with you on that. Thank you.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Menendez. Thank you for your participation and for your interest in this. I hope that the agencies heard our clear call for reform and for their involvement in this corruption problem.

Mr. Loumiet, I wanted to followup on what Mr. Menendez was talking about, the importance of the rule of law and the adherence to democratic principles. Why do you believe that it all stems from the implementation of the rule of law throughout the region? Would you agree that a totalitarian regime which controls the modes of production, which does not adhere to what we could consider to be participatory democracy, which does not have a truly independent judiciary, which does not observe human rights, does not tolerate a free press, all of those aspects, that would point to a country that would not be a reliable trading partner for U.S. investors, and please elaborate on what would happen to investors and investments who deal with such regimes. What do you think is the possible scenario for them?

Mr. LOUMIET. I do not believe that if you look back through history you will find regimes that do not respect the rule of law that have been reliable regimes for investment. One of the things that I see very clearly, 25 years ago, the perspective of U.S. companies was a little bit different because they had different expectations in terms of the region. What is very clear now is that U.S. companies have come to realize that the only way that their own investments are safe is if they are in a country that respects the rule of law, because a country that does not respect the rule of law can turn on you very quickly and can treat you shabbily and can take over your investments without any type of compensation.

So U.S. investors have learned that they have to look for countries that have all of those qualities that you just mentioned, Madam Chairperson, that they are real democracies, that they have an independent judiciary, that they observe due process, that they respect human rights, because all of those things come as a package. You cannot unbundle that package. You cannot have some of those elements but not all of them. They all go hand in hand and they all are subsumed under the category of the rule of law and that is what investors now look for.

I think it is very clear, if you look at the success story, for example, that Chile has become in the last few years, that Chile has become that success story because of its adherence to the rule of law. I had one investor jokingly tell me not too long ago, when he explained to me why his company had selected Chile as opposed to any other Latin American country for a major investment that they carried out, he said, "You know, in Chile you cannot even find somebody to bribe even if you were looking for him," and Chile has now developed that kind of reputation as a country that really cares about being a government of laws and not of men, and that is the kind of country that is going to prosper.

Ms. ROS-LEHTINEN. Thank you. As chairman of the Florida-Latin America Internet Task Force, I would like for you to elaborate and describe the role of e-commerce in expanding trade to Latin America and to improve our United States-Latin America commercial relations. How will brainpower industries redefine this partnership and the nature of U.S. investments in the region and how can the Internet be used to better prepare investors for the challenges that they will face, and from a legal standpoint, what challenges could this present for both us and our Latin American neighbors?

Mr. LOUMIET. Well, it is cliché to talk about how the Internet is business without frontiers, but clichés are always based on truth and that is exactly the case here. It is now possible for a company based anywhere in the United States to reach an international market far more effectively than they ever have in the past, than they have been able to do in the past. And once we get, as we will in a couple of years, real-time video and real-time audio over the Internet, the whole nature of business and how it is conducted, I believe it is going to change, not just in this hemisphere but throughout the globe.

Before I had the opportunity to make my presentation here, I was talking earlier today to a lawyer who was telling me that he had been in the Philippines recently and that in the Philippines, he had been told that because of the way that the Internet, the Philippine Internet operates, which is that they really operate in connection with U.S. portals, that the people from the Philippines felt extremely close now to people in the United States because the interaction that they had with people in the United States now was greater than it ever had been in the past. So you have a country that is thousands of miles away and yet they feel that they have this incredibly close interaction with the United States.

I think e-commerce is going to do—I am as excited about the Internet in terms of its non-business possibilities as I am about its business possibilities. I am particularly excited about its educational possibilities throughout this hemisphere, and, of course, promoting education is part of promoting development, which in turn promotes stability throughout the hemisphere.

But from the e-business perspective, I just see remarkable developments on a daily basis. We now have, for example, I learned recently that the Commerce Department is now setting up a website where small businesses from throughout the hemisphere will be able to have access to the Internet through the Commerce Department page and will be able to do business through that page. I think this is a terrific idea, what the Commerce Department is doing.

The Internet is going to revolutionize business. One of the things that we have to do in order to keep pace with the Internet is to create the legal environment necessary for it to prosper, and part of that, a lot of that is going to be removing, for example, tariff barriers that exist, removing customs or making uniform customs regulations and rules, forms. For example, it is very difficult right now to import things into different countries because of the different forms that are used and the different customs practices. There is a lot that we can do that will make e-commerce far more possible throughout the hemisphere and it is upon us.

There is no question, if you talk to any startup person in the Internet who works with Latin America, that regardless of how small they are, they have big dreams. They see themselves as regional companies. They no longer think of themselves as belonging to a particular country, but they see themselves as operating throughout the hemisphere and it is a very exciting time.

Ms. ROS-LEHTINEN. It is. Thank you so much, Mr. Loumiet.

Mr. Zamora, thank you for your excellent testimony. You referred to the three conditions that you think should be present and need to be improved in order to truly develop the potential for Latin America in terms of investment opportunities. I would like to ask you about the hemispheric investment plan of action which we could develop to define clear and fair rules of investment. What specific provisions would you include if you were given the opportunity to draft this hemispheric investment plan, and related to that, what specific variables or indicators would you include in the zero-tolerance corruption index which you referred to in your testimony?

Mr. ZAMORA. Thank you. In reference to the negotiation for the ICA program to be headed to the year 2005, if I were there, the first action to take is transparency. I think that is the key element of trust because I feel that that deadline of 2005 may be disappearing because so many problems are going on into the region that we may have some difficulties to achieve that goal.

The other is that to have a harmonization in the judicial system because it is the way that all these free trade agreements are going to work. There are going to be many disputes and the only way is that the investors all over the hemisphere could come forward.

In the second one, of the zero-corruption tolerance and index, will be the governability, transparency of the old member of the government in a way that could be classified. For example, the U.S. embassy has all the records, has all the information and has to be to establish who is corrupt and who is not. Therefore, to have as a list to put some sanctions, because the other members of the panel were discussing before an agreement has been signed but is difficult to implement. When you deal with these situations that are creating more problems to the hemisphere because of the corruption process is, I am putting in the same category of the drug traffickers because it is corrupting the people. It is destroying the investment. It is a group of people, a small group of people but it is affecting the majority. Then, therefore, you have to analyze more details. But the idea is to have something that could be quickly implemented without this big signing ceremony that is difficult to have accountability on that.

Ms. ROS-LEHTINEN. Thank you. Thank you, both of you, for your testimony. Mr. Zamora, we will be following up with the agencies that were here today to followup on your particular situation, which I think is reflective of so many other U.S. investors who have had a difficult time with the corruption practices in Latin America and a system here in the United States that is not responsive to the problems of U.S. investors. If we want to stimulate better trade relations, addressing the problems of corruption is essential because we will not be able to encourage further investment in that region if investors are fearful of what could happen to them

and the potential of losing millions of dollars, as you have done. So we will be glad to help you and other U.S. investors who have faced these difficult challenges.

But thank you so much, all of you, for being here today. Mr. Zamora, you wanted to add something?

Mr. ZAMORA. Yes. I would like to give you a copy of all the documents of the case.

Ms. ROS-LEHTINEN. We will be glad to. Thank you, and I will share it with our Subcommittee Members.

The Subcommittee is now adjourned. Thank you.

[Whereupon, at 4:40 p.m., the Subcommittee was adjourned.]

